IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 17437 of 2004

Between:

Boina Venkaiah, S/o Ramakoteswara Rao,
Sarpanch, Cheruvujammalapalem Gram Panchayat, Cheruvujammalapalem,

Bapatla Mandal, Guntur District.

..... PETITIONER

AND

1 The District Panchayat Officer, Guntur, Guntur District.
2 The Divisional Panchayat Officer, Tenali, Guntur District.
3 The District Collector, Guntur District, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ, declaring the action of the 1st respondent in passing the order impugned in ROC No.374/2002-G2 dt.24-8-2004 prohibiting the petitioner from drawing general funds, SGRY and EFC and other funds lodged in the Sub-Treasury, Bapatla Mandal, Guntur District as illegal, arbitrary and irregular and contrary to the law under the A.P. Panchayat Raj Act, 1994 and it is further consequently prayed that this Court may be pleased to set aside the said order impugned.

Counsel for the Petitioner : Mr.S.R.SANKU

Counsel for the Respondents : G.P. FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORDER:

The petitioner filed the writ petition questioning the proceedings dated 24.8.2004 issued by the first respondent in prohibiting him from drawing general funds, SGRY/EFC and other funds lodged in the Sub-Treasury, Bapatla.

By the impugned proceedings dated 24.8.2004, the first respondent in exercise of the powers vested in him under the proviso to Rule 41 of A.P. Panchayat Raj Rules, 1994 ('rules' for short) issued in G.O.Ms.No.30, PR & RD R (PTS.III) Department dated 20.1.1993, pending issue of final orders, prohibited the petitioner from drawing general funds, SGRY & EFC and other funds for Cheruvujammulapalem gram panchayat on certain irregularities said to have been committed by the petitioner. The petitioner, questioning the legality and validity of the said order, filed the present writ petition, contending that before passing the impugned order, the first respondent did not provide any opportunity to the petitioner and that the said order can be passed only against the Executive Authority of the Gram Panchayat, but not against the Sarpanch.

It is not disputed that the Sarpanch of the Gram Panchayat is conferred with the powers of Executive Authority to draw monies to the Gram Panchayat, which can be drawn by the Executive Authority under the above rules and the impugned order is passed only as an interim measure pending passing of orders under rule 42 of the Rules. Rule 42 contemplates issuance of notice before prohibiting the petitioner from drawing monies to Gram Panchayat. In the absence of passing final orders under Rule 42, it is always open to the authorities to take such steps as required for protecting further mis-utilisation of funds.

The leaned counsel for petitioner submits that the first respondent may be directed to conduct the enquiry at an early date and pass final orders.

In the circumstances, this writ petition is disposed of directing the first respondent to complete the enquiry after giving due notice and opportunity to the petitioner and pass final orders in the matter, as expeditiously as possible, within a period of six weeks from the date of receipt of a copy of this order. No costs.

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A.GOPAL REDDY, J

Date: 29.9.2004

To

1 The District Panchayat Officer, Guntur, Guntur District.
2 The Divisional Panchayat Officer, Tenali, Guntur District.
3 The District Collector, Guntur District, Guntur.

4 Two CCs to the G.P. for Panchayat Raj and Rural Development, High

Court Buildings, Hyderabad (OUT).

5 Two CD copies.